

Attn:
ORIGINAL

CLAYTON C. IKEI
Attorney at Law
A Law Corporation

CLAYTON C. IKEI 1260
JERRY P.S. CHANG 6671
1440 Kapiolani Boulevard, Suite 1203
Honolulu, Hawaii 96814
Telephone: (808) 533-3777
Facsimile: (808) 521-7245
Email: CCIOffice@hawaii.rr.com

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

APR 29 2008

at 10 o'clock and 44 min. AM
SUE BEITA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

| | |
|-------------------------------|--------------------------------|
| JEANNE K. ENDO, |) CIVIL NO. 03-00563 LEK |
| |) |
| Plaintiff, |) PLAINTIFF'S PROPOSED SPECIAL |
| v. |) VERDICT FORM; CERTIFICATE OF |
| |) SERVICE |
| UNITED PUBLIC WORKERS, AFSCME |) |
| LOCAL 646, AFL-CIO, |) |
| |) |
| Defendant. |) |
| UNITED PUBLIC WORKERS, |) |
| AFSCME LOCAL 646, AFL-CIO, |) |
| |) |
| Third-Party Plaintiff, |) |
| v. |) |
| GARY W. RODRIGUES, |) |
| |) |
| Third-Party Defendant.) | TRIAL DATE: May 13, 2008 |

5030

PLAINTIFF'S PROPOSED SPECIAL VERDICT FORM

Plaintiff Jeanne K. Endo, by and through her counsel, hereby submits her Proposed Special Verdict Form, pursuant to Federal Rules of Civil Procedures 49 and the Rule 16 Scheduling Order.

SPECIAL VERDICT FORM

The jury must answer all of the questions, unless otherwise indicated. To understand what issues are being submitted to you, you may wish to read over the entire Special Verdict Form before proceeding to answer. Answer the questions in numerical order. Follow all directions carefully. Each answer requires the agreement of all jurors. If you do not understand any questions or if you wish to communicate with the Court on any other subject, you must do so in writing through the Bailiff.

COUNT 1

Do you find from a preponderance of the evidence:

1. That Plaintiff was subjected to a hostile or abusive work environment because of her sex?

YES _____ NO _____

2. That such hostile or abusive work environment was created by a supervisor with immediate or successively higher authority over the Plaintiff?

YES _____ NO _____

3. That the Plaintiff suffered damages as a proximate or legal cause of such hostile or abusive work environment?

YES _____ NO _____

NOTE: If you answered "NO" to any one of the preceding three questions, you need not answer the remaining questions, and you may proceed to Count 2. Otherwise, proceed to Question No. 4.

4. That the Defendant UPW exercised reasonable care to prevent and promptly correct the sexually harassing behavior?

YES _____ NO _____

NOTE: If you answered "NO" to Question No. 4, then proceed to Question No. 5. Otherwise, you may proceed to Count 2.

5. That the Plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by the Defendant UPW or unreasonably failed to otherwise avoid harm?

YES _____ NO _____

NOTE: If you answered "NO" to Question No. 5, then proceed to Question No. 6. Otherwise, you may proceed to Count 2.

6. That the Plaintiff should be awarded damages to compensate her for emotional pain and mental anguish?

YES _____ NO _____

7. If your answer is "YES," in what amount? \$ _____

8(a). That a higher management official of the Defendant UPW acted with malice or reckless indifference to the Plaintiff's federally protected rights?

YES _____ NO _____

\ \

\ \

8(b). If your answer is "YES," that the Defendant UPW itself had not acted in a good faith attempt to comply with the law by adopting policies and procedures to prohibit such discrimination in the workplace?

YES _____ NO _____

8(c). If your answer is "YES," what amount of punitive damages, if any, should be assessed against the Defendant UPW?
\$ _____

NOTE: Proceed to Count 2.

COUNT 2

Do you find from a preponderance of the evidence:

1. That the Plaintiff engaged in or was engaging in an activity protected under federal law?

YES _____ NO _____

2. That the Defendant UPW subjected the Plaintiff to an adverse employment action?

YES _____ NO _____

3. That the protected activity was a substantial or motivating factor in the adverse employment action?

YES _____ NO _____

NOTE: If you answered "NO" to any one of the preceding three questions, you need not answer the remaining questions.
Please have the Foreperson sign this verdict form, and advise the

Court that you have reached a verdict. Otherwise, you may proceed to Question No. 4.

4. That the Plaintiff should be awarded damages to compensate her for emotional pain and mental anguish?

YES _____ NO _____

5. If your answer is "YES," in what amount? \$ _____

6(a). That a higher management official of the Defendant UPW acted with malice or reckless indifference to the Plaintiff's federally protected rights?

YES _____ NO _____

6(b). If your answer is "YES," that the Defendant UPW itself had not acted in a good faith attempt to comply with the law by adopting policies and procedures to prohibit such discrimination in the workplace?

YES _____ NO _____

6(c). If your answer is "YES," what amount of punitive damages, if any, should be assessed against the Defendant UPW?

\$ _____

JURY CERTIFICATE

THE VERDICT MUST BE UNANIMOUS AND MUST BE SIGNED BY THE JURY FOREPERSON.

Dated: Honolulu, Hawaii, _____.

FOREPERSON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

| | |
|-------------------------------|--------------------------|
| JEANNE K. ENDO, |) CIVIL NO. 03-00563 LEK |
| |) |
| Plaintiff, |) CERTIFICATE OF SERVICE |
| |) |
| v. |) |
| |) |
| UNITED PUBLIC WORKERS, AFSCME |) |
| LOCAL 646, AFL-CIO, |) |
| |) |
| Defendant. |) |
| |) |
| |) |
| UNITED PUBLIC WORKERS, |) |
| AFSCME LOCAL 646, AFL-CIO, |) |
| |) |
| Third-Party Plaintiff, |) |
| |) |
| v. |) |
| |) |
| GARY W. RODRIGUES, |) |
| |) |
| Third-Party Defendant. |) |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was duly served upon the following parties at their last known address via U.S. mail, postage prepaid, on April 29, 2008:

TO: ERIC A. SEITZ, ESQ.
LAWRENCE I. KAWASAKI, ESQ.
820 Mililani Street, Suite 714
Honolulu, Hawaii 96813

Attorneys for Third Party
Defendant Gary W. Rodrigues

AND

JAMES E.T. KOSHIBA, ESQ.
CHARLES A. PRICE, ESQ.
KOSHIBA AGENA & KUBOTA
2600 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813

Attorneys for Defendant
UPW, AFSCME, LOCAL 646, AFL-CIO

DATED: Honolulu, Hawaii, April 29, 2008.


CLAYTON C. IKEI
JERRY P.S. CHANG

Attorneys for Plaintiff
JEANNE K. ENDO